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May 25, 2017

System No. 0706108

Dr. Paul Krey
6440 Brentwood Blvd.
Brentwood, CA 94513

CITATION NO. 02_37_17C_004_0706108_01
VIOLATION OF THE NITRATE MCL
FOR MAY 2017

Enclosed is Citation No. 02_37_17C_004_0706108_01 (hereinafter "Citation"), issued to the Lone Tree Medical and Dental (hereinafter "System"), public water system. Please note that there are legally enforceable deadlines associated with this Citation.

California Health and Safety Code (hereinafter "CHSC"), Section 116577, provides that a public water system must reimburse the State Water Board for actual costs incurred by the State Water Board for specified enforcement actions, including but not limited to, preparing, issuing and monitoring compliance with a citation. The System will be billed at the Contra Costa County Local Primacy Agency (hereinafter "LPA"), hourly rate of \$174 for the time spent on issuing any future Citations or Compliance Orders.

If you have any questions regarding this matter, please contact me at (925) 692-2537 or by e-mail at timothy.ellsworth@hsd.cccounty.us

Sincerely,

Timothy Ellsworth, R.E.H.S.
Environmental Health Specialist II

Enclosures



**CONTRA COSTA COUNTY
ENVIRONMENTAL HEALTH DIVISION
LOCAL PRIMACY AGENCY**

Name of Public Water System: Lone Tree Medical and Dental

Water System No: 0706108

Attention: Dr. Paul Krey, Owner

6440 Brentwood Blvd.

Brentwood, CA 9413

Issued: May 25, 2017

**CITATION FOR NONCOMPLIANCE WITH
CALIFORNIA HEALTH AND SAFETY CODE, SECTION 116555(a)(1) AND
CALIFORNIA CODE OF REGULATIONS, TITLE 22, SECTION 64431**

VIOLATION OF THE NITRATE MAXIMUM CONTAMINANT LEVEL

MAY 2017

The California Health and Safety Code (hereinafter "CHSC") Section 116330 allows the State Water Resources Control Board (hereinafter "State Board") to delegate primary responsibility for the administration and enforcement of the Safe Drinking Water Act (hereinafter "SDWA") to the Contra Costa County Local Primacy Agency (hereinafter "LPA") for small public water systems located in Contra Costa County. CHSC Section 116650 authorizes the LPA to issue a citation to a public water

1 system when the LPA determines that the public water system has violated or is in
2 violation of the SDWA. The LPA, hereby issues Citation No.
3 02_37_17C_004_0706108_01 (hereinafter "Citation"), pursuant to Section 116650 of
4 the CHSC to the the Lone Tree Medical and Dental Water System (hereinafter
5 "[System]"), for violation of Section 116555(a)(1) of the CHSC and Section 64431 of
6 the SDWA.

7
8 A copy of the applicable statutes and regulations are included in Appendix 1, which
9 is attached hereto and incorporated by reference.

10 11 **STATEMENT OF FACTS**

12 The System is classified as a Transient Non-Community public water system with a
13 population of 45, serving 2 connections. The System provides treatment for nitrate
14 removal prior to entry in to the building and conducts monthly monitoring for
15 Nitrate.

16
17 CHSC, Section 116555(a)(1) requires all public water systems to comply with
18 primary drinking water standards as defined in CHSC, Section 116275(c). Primary
19 drinking water standards include maximum levels of contaminants and the
20 monitoring and reporting requirements as specified in regulations adopted by the
21 State Water Board that pertain to maximum contaminant levels.

22
23 The treatment unit for nitrate removal malfunctioned, and the monthly nitrate (as
24 nitrogen) sample collected on May 16, 2017 was 20 mg/L. The System immediately
25 repaired and serviced the treatment unit and notified the LPA within 24 hours. The
26 nitrate (as nitrogen) resample was 6.6 mg/L

DETERMINATION

California Code of Regulations, Title 22, Section 64431 requires all public water systems to comply with the nitrate (as nitrogen) maximum contaminant level (MCL) of 10 mg/L.

DIRECTIVES

The System is hereby directed to take the following actions:

1. Cease and Desist from failing to comply with CHSC Sections 11655(a)(1) and CCR, Title 22 Section 64431 by ensuring the system is provided with a reliable and adequate source of pure, wholesome, healthful, and potable water that is in compliance with all primary drinking water standards **at all times.**
2. Complete and return to the State Water Board the "Notification of Receipt" form attached to this Citation as Appendix 2. Completion of this form confirms that the System has received this Citation and understands that it contains legally enforceable directives(s) with due dates.

All submittals required by this Citation shall be electronically submitted to the LPA at the following address. The subject line for all electronic submittals corresponding to this Citation shall include the following information: Water System name and number, citation number and title of the document being submitted.

Timothy Ellsworth

Timothy.Ellsworth@hsd.cccounty.us

1 The LPA reserves the right to make such modifications to this Citation as it may
2 deem necessary to protect public health and safety. Such modifications may be
3 issued as amendments to this Citation and shall be effective upon issuance.

4
5 Nothing in this Citation relieves the System of its obligation to meet the
6 requirements of the California SDWA (CHSC, Division 104, Part 12, Chapter 4,
7 commencing with Section 116270), or any regulation, standard, permit or order
8 issued or adopted thereunder.

9
10 **PARTIES BOUND**

11 This Citation shall apply to and be binding upon the System, its owners,
12 shareholders, officers, directors, agents, employees, contractors, successors, and
13 assignees.

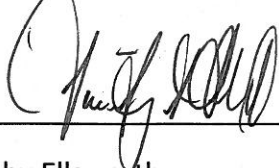
14
15 **SEVERABILITY**

16 The directives of this Citation are severable, and the System shall comply with each
17 and every provision thereof notwithstanding the effectiveness of any provision.

18
19 **FURTHER ENFORCEMENT ACTION**

20 The California SDWA authorizes the LPA to: issue a citation or order with
21 assessment of administrative penalties to a public water system for violation or
22 continued violation of the requirements of the California SDWA or any regulation,
23 permit, standard, citation, or order issued or adopted thereunder including, but
24 not limited to, failure to correct a violation identified in a citation or compliance
25 order. The California SDWA also authorizes the LPA to take action to suspend or
26 revoke a permit that has been issued to a public water system if the public water
27 system has violated applicable law or regulations or has failed to comply with an
28 order of the LPA, and to petition the superior court to take various enforcement

1 measures against a public water system that has failed to comply with an order of
2 the LPA. The LPA does not waive any further enforcement action by issuance of
3 this Citation.

4 

5 _____
6 Timothy Ellsworth

5/25/17

Date

7
8 Appendices (2):

- 9
10 1. Applicable Statutes and Regulations
11 2. Notification of Receipt Form

**APPENDIX 1. APPLICABLE STATUTES AND REGULATIONS FOR
CITATION NO. [Citation Number]
Insert Violation Title (Similar to that placed on page 1 of Citation)**

NOTE: The following language is provided for the convenience of the recipient, and cannot be relied upon as the State of California's representation of the law. The published codes are the only official representation of the law. Regulations related to drinking water are in Titles 22 and 17 of the California Code of Regulations. Statutes related to drinking water are in the Health & Safety Code, the Water Code, and other codes.

California Health and Safety Code (CHSC):

Section 116271 states in relevant part:

(a) The State Water Resources Control Board succeeds to and is vested with all of the authority, duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Public Health, its predecessors, and its director for purposes of all of the following:

- (1) The Environmental Laboratory Accreditation Act (Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101).
- (2) Article 3 (commencing with Section 106875) of Chapter 4 of Part 1.
- (3) Article 1 (commencing with Section 115825) of Chapter 5 of Part 10.
- (4) This chapter and the Safe Drinking Water State Revolving Fund Law of 1997 (Chapter 4.5 (commencing with Section 116760)).
- (5) Article 2 (commencing with Section 116800), Article 3 (commencing with Section 116825), and Article 4 (commencing with Section 116875) of Chapter 5.
- (6) Chapter 7 (commencing with Section 116975).
- (7) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code).
- (8) The Water Recycling Law (Chapter 7 (commencing with Section 13500) of Division 7 of the Water Code).
- (9) Chapter 7.3 (commencing with Section 13560) of Division 7 of the Water Code.
- (10) The California Safe Drinking Water Bond Law of 1976 (Chapter 10.5 (commencing with Section 13850) of Division 7 of the Water Code).
- (11) Wholesale Regional Water System Security and Reliability Act (Division 20.5 (commencing with Section 73500) of the Water Code).
- (12) Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Division 26.5 (commencing with Section 79500) of the Water Code).

(b) The State Water Resources Control Board shall maintain a drinking water program and carry out the duties, responsibilities, and functions described in this section. Statutory reference to "department," "state department," or "director" regarding a function transferred to the State Water Resources Control Board shall refer to the State Water Resources Control Board. This section does not impair the authority of a local health officer to enforce this chapter or a county's election not to enforce this chapter, as provided in Section 116500...

- (k)
- (1) The State Water Resources Control Board shall appoint a deputy director who reports to the executive director to oversee the issuance and enforcement of public water system permits and other duties as appropriate. The deputy director shall have public health expertise.
 - (2) The deputy director is delegated the State Water Resources Control Board's authority to provide notice, approve notice content, approve emergency notification plans, and take other action pursuant to Article 5 (commencing with Section 116450), to issue, renew, reissue, revise, amend, or deny any public water system permits pursuant to Article 7 (commencing with Section 116525), to suspend or revoke any public water system permit pursuant to Article 8 (commencing with Section 116625), and to issue citations, assess penalties, or issue orders pursuant to Article 9 (commencing with Section 116650). Decisions and actions of the deputy director taken pursuant to Article 5 (commencing with Section 116450) or Article 7 (commencing with Section 116525) are deemed decisions and actions taken, but are not subject to reconsideration, by the State Water Resources Control Board. Decisions and actions of the deputy director taken pursuant to Article 8 (commencing with Section 116625) and Article 9 (commencing with Section 116650) are deemed decisions and actions taken by the State Water Resources Control Board, but any aggrieved person may petition the State Water Resources Control Board for reconsideration of the decision or action. This subdivision is not a limitation on the State Water Resources Control Board's authority to delegate any other powers and duties.

Section 116275 states in relevant part:

(c) "Primary drinking water standards" means:

(1) Maximum levels of contaminants that, in the judgment of the state board, may have an adverse effect on the health of persons.

(2) Specific treatment techniques adopted by the state board in lieu of maximum contaminant levels pursuant to subdivision (j) of Section 116365.

Section 116555 states in relevant part:

(a) Any person who owns a public water system shall ensure that the system does all of the following:

- (1) Complies with primary and secondary drinking water standards.
- (2) Will not be subject to backflow under normal operating conditions.
- (3) Provides a reliable and adequate supply of pure, wholesome, healthful, and potable water.

Section 116577. Enforcement fee states:

(a) Each public water system shall reimburse the state board for actual costs incurred by the state board for any of the following enforcement activities related to that water system:

- (1) Preparing, issuing, and monitoring compliance with, an order or a citation.
- (2) Preparing and issuing public notification.

(3) Conducting a hearing pursuant to Section 116625. *NOTE: This publication includes a variety of* (b) The state board shall submit an invoice for these enforcement costs to the public water system that requires payment before September 1 of the fiscal year following the fiscal year in which the costs were incurred. The invoice shall indicate the total hours expended, the reasons for the expenditure, and the hourly cost rate of the state board. The costs set forth in the invoice shall not exceed the total actual costs to the state board of enforcement activities specified in this section.

(c) Notwithstanding the reimbursement of enforcement costs of the local primacy agency pursuant to subdivision (a) of Section 116595 by a public water system under the jurisdiction of the local primacy agency, a public water system shall also reimburse enforcement costs, if any, incurred by the state board pursuant to this section.

(d) "Enforcement costs," as used in this section, does not include "litigation costs" pursuant to Section 116585.

(e) The state board shall not be entitled to enforcement costs pursuant to this section if a court determines that enforcement activities were in error.

(f) Payment of the invoice shall be made within 90 days of the date of the invoice. Failure to pay the invoice within 90 days shall result in a 10-percent late penalty that shall be paid in addition to the invoiced amount.

(g) The state board may, at its sole discretion, waive payment by a public water system of all or any part of the invoice or penalty.

Section 116625 (Revocation and suspension of permits) states:

(a) The department, after a hearing noticed and conducted as provided in Section 100171, may suspend or revoke any permit issued pursuant to this chapter if the department determines pursuant to the hearing that the permittee is not complying with the permit, this chapter, or any regulation, standard, or order issued or adopted thereunder, or that the permittee has made a false statement or representation on any application, record, or report maintained or submitted for purposes of compliance with this chapter. If the permit at issue has been temporarily suspended pursuant to subdivision (c), the accusation shall be served and notice of the hearing date given within 15 days of the effective date of the temporary suspension order. The commencement of the hearing shall be as soon as practicable, but in no case later than 60 days after the effective date of the temporary suspension order.

(b) The permittee may file with the superior court a petition for a writ of mandate for review of any decision of the department made pursuant to subdivision (a). Failure to file a petition shall not preclude a party from challenging the reasonableness or validity of a decision of the department in any judicial proceeding to enforce the decision or from pursuing any remedy authorized by this chapter.

(c) The department may temporarily suspend any permit issued pursuant to this chapter prior to any hearing when the action is necessary to prevent an imminent or substantial danger to health. The director shall notify the permittee of the temporary suspension and the effective date thereof and, at the same time, notify the permittee that a hearing has been scheduled. The hearing shall be held as soon as possible, but not later than 15 days after the effective date of the temporary suspension and shall deal only with the issue of whether the temporary suspension shall remain in place pending a hearing on the merits. The temporary suspension shall remain in effect until the hearing is completed and the director has made a final determination on the temporary suspension, that in any event shall be made within 15 days after the completion of the hearing. If the determination is not transmitted within 15 days after the hearing is completed, the temporary suspension shall be of no further effect. Dissolution of the temporary suspension does not deprive the department of jurisdiction to proceed with a hearing on the merits under subdivision (a).

Section 116650 states in relevant part:

(a) If the state board determines that a public water system is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the state board may issue a citation to the public water system. The citation shall be served upon the public water system personally or by certified mail. Service shall be deemed effective as of the date of

personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.

(b) Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision, standard, order, citation, permit, or regulation alleged to have been violated.

(c) A citation may specify a date for elimination or correction of the condition constituting the violation.

(d) A citation may include the assessment of a penalty as specified in subdivision (e).

(e) The state board may assess a penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation and shall be in addition to any liability or penalty imposed under any other law.

Section 116701 (Petitions to Orders and Decisions) states:

(a) Within 30 days of issuance of an order or decision issued by the deputy director under Article 8 (commencing with Section 116625) or Article 9 (commencing with Section 116650), an aggrieved person may petition the state board for reconsideration. Where the order or decision of the deputy director is issued after a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, this section shall apply instead of Section 11521 of the Government Code.

(b) The petition shall include the name and address of the petitioner, a copy of the order or decision for which the petitioner seeks reconsideration, identification of the reason the petitioner alleges the issuance of the order was inappropriate or improper, the specific action the petitioner requests, and other information as the state board may prescribe. The petition shall be accompanied by a statement of points and authorities of the legal issues raised by the petition.

(c) The evidence before the state board shall consist of the record before the deputy director and any other relevant evidence that, in the judgment of the state board, should be considered to implement the policies of this chapter. The state board may, in its discretion, hold a hearing for receipt of additional evidence.

(d) The state board may refuse to reconsider the order or decision if the petition fails to raise substantial issues that are appropriate for review, may deny the petition upon a determination that the issuance of the order or decision was appropriate and proper, may set aside or modify the order or decision, or take other appropriate action. The state board's action pursuant to this subdivision shall constitute the state board's completion of its reconsideration.

(e) The state board, upon notice and hearing, if a hearing is held, may stay in whole or in part the effect of the order or decision of the deputy director.

(f) If an order of the deputy director is subject to reconsideration under this section, the filing of a petition for reconsideration is an administrative remedy that must be exhausted before filing a petition for writ of mandate under Section 116625 or 116700.

California Code of Regulations (CCR), Title 22:

Section 64431 states:

Public water systems shall comply with the primary MCLs in table 64431-A as specified in this article.

**Table 64431-A
Maximum Contaminant Levels**

Inorganic Chemicals

<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Aluminum	1.
Antimony	0.006
Arsenic	0.010
Asbestos	7 MFL*
Barium	1.
Beryllium	0.004
Cadmium	0.005
Chromium	0.05
Cyanide	0.15
Fluoride	2.0
Hexavalent chromium	0.010
Mercury	0.002
Nickel	0.1
Nitrate (as nitrogen)	10.
Nitrate+Nitrite (sum as nitrogen)	10.
Nitrite (as nitrogen)	1.
Perchlorate	0.006
Selenium	0.05
Thallium	0.002

* MFL=million fibers per liter; MCL for fibers exceeding 10 μ m in length.

Section 64432 states:

(a) All public water systems shall monitor to determine compliance with the nitrate and nitrite MCLs in table 64431-A, pursuant to subsections (d) through (f) and Section 64432.1. All community and nontransient-noncommunity water systems shall monitor to determine compliance with the perchlorate MCL, pursuant to subsections (d), (e), and (l), and section 64432.3. All community and nontransient-noncommunity water systems shall also monitor to determine compliance with the other MCLs in table 64431-A, pursuant to subsections (b) through (n) and, for asbestos, section 64432.2. Monitoring shall be conducted in the year designated by the State Board of each compliance period beginning with the compliance period starting January 1, 1993.

Appendix 2 - Notification of Receipt

Citation Number: 02_37_17C_004_0706108_01

Name of Water System: Lone Tree Medical and Dental

System Number: 0706108

Certification

I certify that I am an authorized representative of the Lone Tree Medical and Dental Water System and that Citation No. 02_37_17C_004_0706108_01 was received on _____. Further I certify that the Citation has been reviewed by the appropriate management staff of the Lone Tree Medical and Dental Water System and it is clearly understood that Citation No. 02_37_17C_004_0706108_01 contains legally enforceable directives with specific due dates.

Signature of Water System Representative

Date

**THIS FORM MUST BE COMPLETED AND RETURNED TO THE CONTRA COSTA ENVIRONMENTAL HEALTH,
NO LATER THAN July 1, 2017.**

Disclosure: Be advised that the California Health and Safety Code, Sections 116725 and 116730 state that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the Safe Drinking Water Act may be liable for, respectively, a civil penalty not to exceed five thousand dollars (\$5,000) for each separate violation or, for continuing violations, for each day that violation continues, or be punished by a fine of not more than \$25,000 for each day of violation, or by imprisonment in the county jail not to exceed one year, or by both the fine and imprisonment.